

Meeting #4 - Workgroup on the Licensing of Food Service Facilities

August 22, 2018

Maryland Restaurant Association

In attendance:

*Lisa Staley
*Colby Ferguson
*Kenneth Welch
*Cynthia Shruell
*Erik King
*Julie Mackert
*Sharon Pawlowski
Del. Krebs
Lou Trescott

Melvin Thompson
Pat Vauls
Brent Smith
Diedre Moltere
Kathleen Kennedy
Eamon Flynn
Jody Sheely
Cliff Mitchell

* - Workgroup member

Meeting Notes:

- The draft report was sent out to the official members of the Workgroup prior to this meeting.
- Discussion on possible exemptions to food service licensing
 - Based on information received from the National Conference of State Legislatures, there is not a lot of information readily available on state-level regulation of churches and charitable organizations.
 - Virginia has a unique regulatory environment without specific licenses. There are multiple categories of retail and food facilities and it's unclear who regulates each. Virginia allows inspection of private kitchens for cottage food businesses.
 - Minnesota (as well as other states) requires labeling of foods not subject to regulation or inspection.
 - Minnesota's exemptions clarify whether a church event is public or private.
 - Similar to Maryland, Minnesota allows churches to decide whether to be licensed as a commercial food service facility or not.
 - Massachusetts distinguishes depending on whether the food is provided at no/low cost or whether the purpose is to raise funds.
 - Possible exemptions are specific to foods prepared in a private kitchen, not the kitchen in a church or charitable organization.
 - Language from Minnesota was discussed specifically and whether it should be used as a model for potential changes to Maryland's food safety laws:
 - Addresses many of the risks identified by the Workgroup, including labeling, certified food manager, and food safety concerns.
 - Not every food item needs to be individually labelled. Labels may be important for traceback in the event of an outbreak, but consumers may not pay attention or retain the labels. A master list kept by the organizer

may be just as valuable as it captures the same information. The list should be kept for a certain period of time (at least 90 days) and be available for inspection. It would apply to both potentially and non-potentially hazardous foods. This would only apply to events hosted by a charitable or religious organization; bake sales would not be required to keep a list of foods.

- Discussion on whether labels or lists of foods should have just name and address or a list of ingredients.
 - Discussion on whether exemption (8) is applicable or consistent with current regulations. Last sentence prohibiting bringing foods into a licensed kitchen seems counter to food safety goals.
 - To be exempt, the hosting organization would have to have a certified food handler or volunteer trained in an approved food safety course on site. Classes are available online, although exam must be taken in person. Some certified training organizations will certify a food handler to be a trainer him/herself (train the trainer model). This can help reduce the costs for smaller organizations. The course takes about 16 hours to complete and is good for up to five years. Some jurisdictions provide a half day or full day abbreviated food safety training course.
 - Exemption (14) does not require a certified food handler.
 - Events would still be subject to inspections, but not licensure.
 - Exemption (8) clarifies the event can be advertised as open to the public.
 - How do these exemptions apply to an “unlicensed excluded organization”?
 - An unlicensed excluded organization must still adhere to many of the regulations in COMAR.
 - Unlicensed excluded organizations do not need to pull a temporary food event but do need to notify the local health department if there will be more than 200 people.
 - Clarification is needed; if an exempt organization is hosting an event without a permit, should they be required to notify the local health department? Should the criteria for notification be the same as for an unlicensed excluded organization?
 - A certified food manager on site would not be knowledgeable of how the food was prepared in a home kitchen. In (8), a certified food manager is not required.
 - (8) applies to a private event; (12) applies to a public event.
 - Signage in (14)(iii) should apply to all exemptions.
- Virginia’s exemption (first paragraph) only applies to non-potentially hazardous foods and is consistent with Maryland’s current regulations.
 - Discussion on which organizations should be included in an exemption. Current regulations at state and local level use “bona fide nonprofit.”
 - Could use record of all bona fide nonprofits to distribute information.

- Concern that outreach efforts could alert local health departments to organizations that may be operating not in compliance with regulations. Goal of regulations is to provide a level playing field and consistent standard for all jurisdictions. The purpose of standardization of local health departments is to reduce the number of outliers.
- Proposed changes will shift food safety responsibilities from the inspector to the host organization. Health departments can focus more engagement and outreach to higher risk events and organizations. In many cases it is the smaller organizations that are higher risk.
- Discussion on Recommendations
 - Recommendation #1
 - Hope would be to not standardize to the strictest jurisdiction. Standardization process is based off the state.
 - Would include a new standardized form that could be used by local jurisdictions. Home rule counties could apply additional requirements or information.
 - Recommendation #2
 - A smaller separate workgroup would work on developing the guidelines, not necessarily the current Workgroup.
 - How would this be distributed? Many counties have this information available online. The guidelines could also be provided on the State website, but jurisdictions are free to be more restrictive. Would there be active distribution to churches and other organizations? Harford County has done outreach training to bring in stakeholders and provide information, but that would be up to each jurisdiction.
 - If significant changes are made to state regulations, it would likely necessitate a larger training and outreach effort to local jurisdictions and local health departments.
 - Not all jurisdictions have the capacity to put all forms online. Forms should not require carbon copies, original signatures. Online forms and faxing documents should be allowed. Not all counties have the same paperwork requirements or processes for processing applications.
 - Recommendation #3
 - Reaching out to potentially excluded organizations will be important.
 - Guide may need additional information, like as provided in Recommendation #2.
 - May need to provide information on who is a bona fide nonprofit.
 - Should specify that events are still subject to inspection.
 - Excluded organizations need to notify local health departments if the event is over 200 people. No license is needed, but the local health department still may request information. Include protocol for notification in the guide.

- Should the number of people at the event (200) be changed? While somewhat arbitrary, it is current practice.
 - A drill-down online form/survey that directs people to the correct license (and notifies the local health department) would be the most helpful.
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- Recommendation #4
 - This issue may be partially addressed by event exemptions. Minnesota's exemption (8) addresses this issue. This may still be an issue for a non-excluded event.
 - Is this a clarification that would be made through statutory changes? No, this would be more guidance on advertising events, especially through social media.
- Recommendation #5
 - Clarification would not come through a regulatory change.
- Recommendation #6
 - This recommendation is also partially addressed by Minnesota's exemption (8).
 - This does not address applying for recurrent events that are more than 30 days apart.
 - As it relates to Recommendations 1, 2, and 6, regulatory changes would be made with the input and feedback of any interested stakeholders.
 - Exempted organizations (under the Minnesota model) would not need to apply for a temporary food event, but there should be some language about providing notification to a LHD.
- Recommendation #7
 - Changes to excluded organizations may not be applicable if Minnesota model is adopted. The limits on number of events for an excluded organization may still be helpful for smaller churches that only do a few events each year.
- Discussion on body of report
 - On page 6, report states there have been "significant" outbreaks. Intention was to emphasize the seriousness of the outbreak and not the overall number of outbreaks, which is more subject to interpretation.
 - The issue of caterers is addressed on page 7 under Related Issues. It's not directly applicable to this Workgroup but should be addressed in the future.
 - Like for exempt organizations, perhaps notification should be provided to the LHD even if a permit is not necessary.
 - If an exempt organization has a caterer provide food, the organization wouldn't need to pull a temporary event license, but the caterer would.
 - There should be a clarification between restaurants and caterers (who have been pre-approved to go to out and serve food off site, much like a food truck).

- Some counties add the word "caterer" to the food service facility license issued to denote they are in compliance with catering service requirements.
- The regulations proposed by the Department may address caterers as well. Whether caterers with an approved HACCP plan providing food to a bona fide non-profit organization could be exempted from needing a temporary event permit will be considered.
- Next draft will be sent out in approximately two weeks, at which point we will determine if another in person meeting will be needed.